

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 8853 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
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AKRAM NIZAR AHMED SHAIKH

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 8853 of 2001

MR RJ GOSWAMI for Petitioner No. 1

MR VM PANCHOLI, LD.ADDL.PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 02/05/2002

ORAL JUDGEMENT

#. Rule. Mr.V.M.Pancholi, learned APP waives service of
rule on behalf of the respondent - State.

#. With the consent of the learned advocates for

the parties this application is being heard and disposed of finally.

#. This is an application under Section 482 of the Criminal Procedure Code, 1973, for quashing and setting aside FIR being Prohibition C.R. No.5242/2001 registered with Sherkotda Police Station at Ahmedabad, for the offence punishable under the Bombay Prohibition Act. It is alleged in the said FIR that Foreign Liquor was found in possession of the accused named in the said FIR, placed at Annexure-A at page-1, on 28.10.2001 at 11:00 p.m. The FIR was filed soon after the seizure of the said muddamal.

#. The petitioner herein states that his name does not appear in the FIR and he has not committed any offence and, therefore, FIR may be quashed.

#. In the meantime, it appears that investigation has been concluded and charge-sheet has been filed and there is no dispute that the name of the petitioner appears in the charge-sheet as one of the accused person.

#. During the course of hearing the learned APP Mr.Pancholi, states that except the statement of the co-accused there is no other material to connect the present petitioner with the offence in question. When the charge-sheet has already been filed and when all the papers are there with the prosecution and when these papers do not disclose involvement of the present petitioner in the aforesaid offence then in that case this is a fit case wherein aforesaid FIR which has been culminated in the Criminal Case should be quashed, since, there is no material to show the involvement of the present petitioner in the aforesaid offence and when no material has been collected by the Police Investigating Officer linking the present petitioner with the offence in question.

#. For the foregoing reasons, this application is allowed. The FIR being Prohibition C.R. No.5242/2001 registered with Sherkotda Police Station Ahmedabad, on 28.10.2001 which has been culminated in Criminal Case No.258/2002 pending before the learned Metropolitan Magistrate Court No.3 is ordered to be quashed qua the petitioner only. The trial Court will be at liberty to proceed ahead according to law with respect to other accused persons. Rule is made absolute to the above extent.

(D. P. BUCH, J.)

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